



261ST DISTRICT COURT

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April 10, 2020

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Re: Cause No. D-1-GN-20-002034; *Texas Criminal Defense Lawyers Association v. Abbott et al.*; In the 459th District Court of Travis County, Texas

Dear Counsel:

I have considered the Plaintiffs' Application for Temporary Restraining Order, response, evidence, and arguments of counsel and hereby GRANT the application, as it applies to the independently elected judicial officers (the judges) who are Plaintiffs in this cause.


This Court fully respects the interests and powers of the Governor to meet and manage the extraordinary challenges this State faces in times of disaster. However, many of the orders in Executive Order GA-13 strip away the discretion of the judiciary and potentially subject its judges to mandamus or criminal action with little or no rationale in coping with the current health crisis. Instead, the order appears to address an unsubstantiated fear that the judges of the state will abandon their legal obligation to balance the interests of the public, individuals accused, but not convicted of criminal offenses, and the victims of those alleged offenses. The judges of this state were required to balance these very interests every day prior to the disaster declaration, and they are required to do so every day while the disaster persists, and they will be required to do so every day once the disaster declaration ends. This exercise of judicial discretion falls squarely within the purview of the judicial branch of our government. To be clear, the judges of this State may not abandon their responsibility in this regard, but neither may it be taken away from them by executive order. Therefore, the Court GRANTS the application for temporary restraining order as to the judges. Of course, Executive Order GA-13 also applies

to any county judge, mayor, or emergency management director and nothing in this order is intended to address the constitutionality the Governor's action as it relates to those officials. That issue was not argued during the hearing and, of course, the parties may address that matter at the upcoming hearing on Temporary Injunction. Additionally, in this ruling, the Court need not reach other issues regarding standing of the organizational parties and the like and those issues may also be argued at the hearing on Temporary Injunction.

Given the nature of the case, the number of parties involved, and for reasons of judicial economy, I will refer this case to the Local Administrative Judge for his consideration of an assignment to a specific judge under Travis County Local Rules 2.6. I would expect Judge Sulak to contact you further should he decide to make such an assignment.

If you have any questions, please contact my Staff Attorney, Brent McCabe. Stay safe.

Sincerely,



Lora J. Livingston
Judge, 261st District Court

cc: Ms. Velva L. Price, Travis County District Clerk